

**INDIANA UTILITY REGULATORY COMMISSION AND TECHNICAL STAFF'S REQUEST
FOR INPUT AND FEEDBACK ON 2020 IPE ISSUES LIST**

**INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S
OCTOBER 9, 2020 COMMENTS**

On September 9, 2020, the Indiana Utility Regulatory Commission ("Commission") opened up the second round of comments on the improving procedural efficiencies project. Commission staff finalized a list of possible improvements based on the comments submitted to the Commission in June. The Commission's topics are reproduced below in bold and italics with OUCC comments in regular type:

I. In all docketed Proceedings:

A. The Petitioner must provide supporting testimony, in addition to a petition.

The OUCC understands this requirement to mean that supporting testimony must be filed at some point during a proceeding, and not that this requires simultaneous filing of testimony with a petition. Given this understanding, the OUCC supports this provision. The OUCC would like to further add that the statutory time clock for a case does not begin until case-in-chief testimony is filed.

B. The Petitioner should provide more information in its case-in-chief, including, but not limited to:

1) Visibly listing in the petition, the estimated dollar amount and percentage increase for which cost recovery is being requested;

The OUCC supports this provision.

2) Answers to questions asked in any pre-petition meetings with Commission staff, the Office of Utility Consumer Counselor ("OUCC"), and other potential parties; and

The OUCC would like the Commission to add that the questions be listed as well as the answers for clarity.

3) Workpapers as Excel spreadsheets with formulas intact.

The OUCC supports this provision and suggests the Commission require all schedules, workpapers, and exhibits produced in Excel be supplied with formulas intact. To promote efficiency of the process, this information should be provided no more than two (2) business days after filing testimony, if not contemporaneously with testimony.

C. An index of issues should be included:

1) In cases in which the utility has more than 8,000 customers and the filing party has at least four witnesses providing testimony and at least two of those witnesses are providing testimony on the same issue(s)

The OUCC appreciates the Commission's efforts in this regard. There are many large rate cases where an index would have made review more efficient. The OUCC believes it would be simpler to require an index based only on the number of witnesses in the Petitioner's or Joint Petitioners' case (e.g. ten (10) or more witnesses). Number of witnesses is the best indicator of whether an index will be useful or necessary. Four or five witnesses may be too few a threshold. Also, it may present an obstacle to smaller operations which often have up to four witnesses but with minimal overlap between the witnesses (i.e., accounting witness, engineering witness, utility manager witness, and a COSS witness.)

2) By all parties in cases that qualify under C (1) above; and

The OUCC requests the same requirement based on number of witnesses be applied here as well.

3) Using the example of the Indiana Michigan Power Company rate case (IURC Cause No. 45235).

The OUCC believes the requirement should specify what portions of the example should be followed. While the OUCC found this particular case was well organized, specificity of what is to be expected in an index is needed. Reference to the presentation of this case is useful as a guide for purposes of determining what aspects of the presentation should be duplicated.

D. All hearings and pre-hearing conferences may be conducted electronically:

1) if no party objects; and

2) at the discretion of, and determination by, the Presiding Officers, on a case-by-case basis.

The OUCC supports this innovation, particularly if this means the hearing will be conducted electronically if both conditions are met (i.e. no party objects and the presiding officers agree to have an electronic hearing). The OUCC suggests that rather than requiring a party to express a formal objection to an electronic hearing, the inquiry can be whether all parties consent. The OUCC expects such consent would typically be readily given. The OUCC expects the election of an electronic hearing will be initiated by parties as well as presiding offices. In the case of the former, it would be more efficient for all parties as a practice to confer before one of them asks the presiding officers to agree to hold a hearing electronically. With respect to prehearing conferences, it may be appropriate for presiding officers to have more unilateral discretion to decide whether to have an electronic hearing, particularly if the parties have agreed on all matters and it will not be contested with evidence. To that end, it may make sense to have the process distinguish between a prehearing conference and other evidentiary hearings.

E. Proposed orders should:

1) Provide facts used to support the findings and cite those facts, providing the exhibit name/designation and page number;

The OUCC agrees with this practice.

2) Limit the recitation of facts to those that are the substantive evidence upon which the findings that support the ultimate conclusion(s) are based;

With respect to the Commission's findings, in particular, the OUCC agrees with this practice in principle.

3) Not contain any new evidence or new arguments (i.e., not submitted or made during evidentiary hearing); and

The OUCC agrees generally with these principles, particularly with respect to parties endeavoring to introduce into the proposed order evidence that is not of record. Enforceable prohibitions to these practices already exist. The creation of additional prohibitions may create controversies the Commission will need to decide making proceedings less efficient. What constitutes a new argument for purposes of a prohibition requires clarification and narrowing. Further, the OUCC believes the regulatory process typically permits post hearing arguments be made on the evidence presented at the hearing, and understands this requirement to prohibit “new” arguments that are not responsive to arguments/evidence presented during the course of the proceeding or that “new” requests for relief should not be included in proposed orders. While OUCC supports the Commission expressing this preference, any formal prohibition or direction could work against the goal of making Commission proceedings more efficient.

4) Not include settlement agreements entered into after the record is closed.

The OUCC understands the Commission must determine whether any settlement is supported by the evidence and is in the public interest. The OUCC agrees settlement agreements should be presented before the close of evidence.

II. Rate case proceedings:

A. MSFRs should be amended to:

1) Contain requirements for future test year;

The OUCC supports this provision. To this end the OUCC is gathering feedback from its internal experts and expects to provide additional information to the Commission by the end of the year concerning specific topic areas and specific rule sections to aid the Commission in the forthcoming rulemaking. At this time the OUCC can offer comments on the form of including future test year requirements. The OUCC believes future test year requirements should be embedded into each section of the existing MSFR rule rather than having a separate duplicative section for future test years. Additional definitions will also need to be added.

Future test year workpapers requirements for rate base are needed; specifically, the support for projected capital projects. The additional information needed should include the following:

- (1) Description of each project exceeding a certain \$ amount - should probably be based on some % of utility plant in service such as 0.025% of total utility plant in service – that would require a utility with \$2.0 Billion of UPIS to explain all capital projects greater than \$500,000 (0.05% would require them to explain projects greater than \$1,000,000) as part of MSFRs. The description should include basic information such as –
 - a. Project name;
 - b. Project number or other identifier;
 - c. Brief description of the project including an explanation as to why the project is needed at this time;
 - d. Prioritization ranking of the project;
 - e. Brief description of alternatives considered;
 - f. Whether the project addresses new or existing infrastructure;
 - g. Latest, or most applicable, engineering report for the project;
 - h. Estimated project start date;

- i. Estimated completion date;
- j. Total project cost estimate, including construction costs, contingencies and non-construction costs with a break down by categories such as capitalized labor, contractor costs, materials, AFUDC, etc.
- k. Actual or projected total project cost at completion (broken down between construction cost and total non-construction cost);
- l. Brief explanation of how projected total project cost was determined (i.e., historical costs; estimated costs from a detailed engineering report; etc.);
- m. Detailed work order level estimates for each project (projected test year);
- n. Explanation in testimony as to the reason and scope of each project with a cost of \$500,000 or more.

(2) Additional Capital Project Information to be provided.

- a. Provide a description and explanation of any inflation or escalation factor used to estimate project costs for future test year cases, including how Petitioner calculated the amount of the inflation or escalation factor.
- b. Provide a description and explanation of any contingencies included in estimated project costs for future test year cases, including how Petitioner calculated the amount of the contingency.
- c. Provide Petitioner's allowance for funds used during construction ("AFUDC") rate calculation and methodology.
- d. Provide a copy of the latest engineering Master Plan.
- e. Provide a copy of the latest Asset Management Plan.
- f. Provide a copy of the latest system map (print or digital).

2) Require workpapers, testimony, and schedules to be in the same order as listed in the MSFRs or index/references are provided, so the workpapers, testimony, and schedules can be located easily;

The OUCC agrees.

3) Extend the timeline for review and requirements for completeness;

The Commission's small utility filing process provides what could be instructive guidance for a new review process for MSFR completeness. The OUCC believes it is important for the rules to indicate who is responsible for determining completeness. Further, rather than the process be simply verifying a document or workpaper exists, the determination of completeness should include verifying that the workpaper ties to the financial statements and other exhibits and schedules, is necessary.

4) Provide for a consequence for failure to file a complete case-in-chief (for example, the timeline for the rate case would not start until the filing of a complete case-in-chief as defined in the MSFR rule); and

The OUCC supports this provision. Further, the MSFRs already provide this consequence – if the Commission finds that the utility's filing is incomplete the clock for the case does not start until the deficiency has been remedied. The OUCC suggests this practice can and should continue to apply under existing law.

5) Possibly update technical requirements and eliminate those no longer necessary.

The OUCC made suggestions in its June 5, 2020, response indicating: (1) all PDF documents should have fonts embedded and should use machine-readable text data rather than images, scanned documents, and photos whenever possible to allow reader to search through text; (2) When submitting maps, photos, or engineering plans as electronic images have no more than one image per 8 ½ by 11-inch sheet; (3) all filings should be legible without numerous overlays; and (4) maps should indicate true north, an indication of scale, and provide a legend. The OUCC still supports the adoption of these formatting standards for technical information. As mentioned above, the OUCC intends to provide more specific feedback on the rulemaking to the Commission and will review the rule for areas to update specific technical requirements as indicated in this provision.

B. Accounting Schedules – testimony and workpapers shall present three specific schedules – Sch. 1 Revenue Requirements, Sch. 4. Net Operating Income, and the Gross Revenue Conversion Factor in the format of municipal and investor-owned utility strawman schedules, which are posted on the Commission’s website for comment and feedback. Specifically, Sch. 4 Pro Forma statement should be detailed by each revenue and expense category. Every adjustment to revenues and expenses should at a minimum include the pro-forma, test year, and adjustment amounts, as well as reference(s) to where more detail of the calculation may be found. (Note: We understand that significant resources have been expended in the development of utility rate accounting schedules; therefore, in addition to the three required schedules, the utility may also submit their preferred style of accounting schedules containing all necessary items for the rate case.)

The OUCC agrees with this requirement but would further require:

- (1) Comparative financial statements be in the same format as the utility’s FERC report or IURC annual report (not based on government or other accounting principles);
- (2) Accounting adjustments provided should show or explain how the pro forma revenue/expense was determined and not just state “Pro forma Revenue/Expense.” The details can be provided in the workpapers, but the Commission and other interested parties should not have to review numerous workpapers to find out how the pro forma revenue/expense was determined or what it is based upon. For example: PERF Expense – The utility should provide the basic calculation - pro forma salaries times the PERF rate to yield pro forma PERF expense. The workpapers should contain the most recent PERF letter or support provided.

III. Pilot programs should:

- A. Provide necessary information;***
- B. Describe the use of objective criteria for evaluation of the success or usefulness of the program;***
- C. Allow for reasonable flexibility; and***
- D. Include testimony regarding why the program benefits all of the utility’s customers, not just the participants (i.e., why it is in the public interest of all of the utility’s customers).***

The OUCC supports the Commission’s intent to provide additional requirements and clarity regarding Pilot Programs. As the OUCC commented on June 5, 2020, the OUCC still believes defining what constitutes a pilot program will aid in creating a standard for information necessary to support pilot program requests.